

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Andrew Yang et. al., individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

New York State Board of Elections,

Defendant.

ECF CASE

CIVIL ACTION:

AFFIDAVIT OF JEFFREY M. KURZON

Jeffrey M. Kurzon, under the pains and penalties of perjury, states as follows:

1. I am the attorney for plaintiffs in this action, individually and on behalf of all others similarly situated plaintiffs ("Plaintiffs"), in this case. I submit this Affidavit in support of Plaintiffs' EMERGENCY ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER in accordance with Federal Rule of Civil Procedure 65(b).
2. I am an active and registered New York State Democratic Party voter and a candidate for delegate pledged to Andrew Yang from New York's 7th Congressional District (Lower Manhattan, parts of Brooklyn and Queens) to the Democratic Party National Convention and have been also harmed by the action of Defendants. I am representing Plaintiff's *pro bono* with the expectation that the lead Plaintiff will pay for costs.

3. I currently reside in New York County, New York.
4. It is my opinion that the action taken by the NY legislature allowing for Defendant to take the April 27, 2020 action complained of in this complaint, as well as the action itself taken by Defendant to cancel the June 23, 2020 presidential, substantially violates the due process, equal protection and voting rights of the Plaintiffs, as well as all others similarly situated and the rights of all New York Democratic registered voters. This is primarily because it infringes the Plaintiff's right they earned to be candidates in the June 23 election under the NY Election Law and the United States and NY Constitutions, and infringes Plaintiffs' (and all NY registered Democrats') right to vote.
5. This emergency action is justified and emergency relief is requested as the most efficient means of solving the dispute, whereas the federal court is better positioned to protect Plaintiff's federal voting, equal protection and due process rights under the United States Constitution than the state courts.
6. It is my opinion that this arbitrary decision of the Defendant disenfranchises Plaintiffs' rights as voters in the State of New York and as candidates for the office of the President and Delegate to the Democratic National Convention and will have the negative and illegal effect of suppressing voter turnout (by removing the top-of-the-ticket primary) .
7. It is my opinion that this arbitrary decision of the NY BOE will have the effect of suppressing voter turnout and disenfranchising the rights of more than six million voters in the State of New York.
8. It is my opinion no security should be required for this action as it would provide an effective bar to Plaintiffs ability to bring this action. Considering the harms alleged in this

complaint against the Plaintiffs and all similarly situated persons and the relatively negligible cost to the Defendant of this action, no security should be required.

9. Pursuant to FRCP 65(b)(1)(B), immediately after filing, a copy of this complaint and all attachments will be mailed by express overnight mail, postage paid, to the main contact information listed online for the Defendant (found at <https://www.elections.ny.gov/Contact.html> (last visited April 28, 2020) on this day April 28, or no later than April 29, 2020:

*NYS BOARD OF ELECTIONS
40 NORTH PEARL STREET, SUITE 5
ALBANY, NY 12207-2729*

Moreover, I will e-mail a copy of this complaint and all attachments today to enforcement@elections.ny.gov and make a courtesy call to (518) 486-7858, as this is the email and phone number listed on Defendant's website for "Enforcement Counsel."

Additionally, a courtesy e-mail of this complaint and all attachments will be made today to dak@khgflaw.com, which is believed to be the email of address Defendant Board Member and co-Chair of the New York State Board of Elections Douglas A. Kellner.

10. No further notice should be required due to the seriousness of the allegations complained of in the complaint and the timely and urgent nature of the relief sought to protect the rights of Plaintiffs and all similarly situated.
11. Once the Court sets a return date, notice thereof will be made by the undersigned in the same manner as described above in paragraph 9, unless the Court instructs otherwise.

12. The undersigned submits that the Court set a telephonic hearing be scheduled to determine the relief herein at the Court's earliest convenience considering the temporal and emergency nature of this action.

WHEREFORE, your affirmant respectfully requests that this Court enter a judgement against Defendant NYS BOE enjoining them from canceling the June 28 Democratic Presidential Primary and grant Plaintiffs costs and fees and such other and further relief as this Court deems just and proper. This Affidavit is being executed electronically.

Dated: Peterborough, New Hampshire
April 28, 2020

By: ___/s/ Jeffrey M. Kurzon____
Jeffrey M. Kurzon
Attorney for Plaintiffs

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